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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 16, 2001

PETITION OF

YIPES TRANSMISSION VIRGINIA, INC. CASE NO. PUC010146

For Arbitration Pursuant to
§ 252(b) of the Telecommunications
Act of 1996 to Establish an
Interconnection Agreement

ORDER OF DISMISSAL

By Preliminary Order of August 21, 2001, the State Corporation Commission ("Commission") docketed this petition of Yipes Transmission Virginia, Inc. ("Yipes"), for arbitration of unresolved issues in its interconnection negotiations with Verizon Virginia Inc. ("Verizon Virginia") pursuant to § 252(b) of the Telecommunications Act of 1996.¹ In the Preliminary Order, the Commission made certain findings on its jurisdiction to arbitrate pursuant to our "Rules governing the offering of competitive local exchange service", 20 VAC 5-400-180 F 6. We ordered Yipes and Verizon Virginia to advise the Commission by September 5, 2001, whether they wished to pursue arbitration under 20 VAC 5-400-180 F 6.

¹ Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 56, *codified* at 47 U.S.C. § 151 *et seq.*

By letter filed with the Commission on September 5, 2001, Verizon Virginia claimed that most of the unresolved issues are related to dark fiber which had been addressed by the Federal Communications Commission ("FCC") in its "UNE Remand Order." Verizon Virginia stated that it expected that Yipes would pursue its claims before the FCC and that it would raise any defense before that agency.

On September 10, 2001, Yipes filed its Motion for Extension of Time. According to its motion, Yipes required additional time to consider whether it should proceed with its petition. By Order Granting Extension of September 12, 2001, the Commission authorized Yipes to advise the Commission by September 21, 2001, of its intention to proceed. On September 24, 2001, Yipes filed its Motion for Further Extension of Time. By Order Granting Further Extension of September 27, 2001, the Commission extended the filing date to October 5, 2001, as requested by Yipes.

By letter filed with the Commission on October 5, 2001, Yipes advised the Commission that it would not pursue arbitration pursuant to our "Rules governing the offering of competitive local exchange service," 20 VAC 5-400-180 F 6. Yipes will pursue arbitration before the FCC, and it requested dismissal of its petition.

The Commission issued a Preliminary Order on August 21, 2001, which allowed the parties to elect to proceed with arbitration by the FCC under the Act in lieu of this Commission or pursue resolution of unresolved issues pursuant to 20 VAC-400-180 F 6. We incorporate the Preliminary Order herein by reference.

Therefore, the Commission finds that the petition by Yipes should be dismissed so that the parties may proceed before the FCC. It shall be the responsibility of the parties to serve copies of all pleadings filed herein upon the FCC.

Accordingly, IT IS ORDERED THAT:

(1) This case is hereby dismissed without prejudice, consistent with the findings above. This Commission will not arbitrate the interconnection issues under federal law for the reasons set forth in the Preliminary Order issued in this case on August 21, 2001.

(2) There being nothing further to come before the Commission, this case is closed.